

CHAPTER VII

DEMOLITION and WASTE DISPOSAL REQUIREMENTS

Demolition activities are governed by many of the same principles regulations as are housing construction projects, including those dealing with procurement, equal opportunity, reporting and performance, and others. This chapter will cover those regulations and requirements that are unique to demolition activities, including documenting the national objective, prevailing wage, waste disposal, asbestos compliance, and land reuse restrictions. Follow the rules in this chapter that are applicable to your project. These rules apply to your project whether it is a CDBG target-area, open-cycle housing, or a demolition-only project.

NATIONAL OBJECTIVE: SLUM & BLIGHT CRITERIA

For a structure to be demolished in a grantee's project, the structure must first meet one of the slum and blight criteria stated below. A grantee must have documentation in their project files to show that each structure that will be demolished meets one of those definitions or an adopted local definition of slum and blight, i.e., a grantee's adopted dangerous building code definition. Note that the subsequent documentation of LMI benefit may be required where a grantee acquires ownership of a cleared lot using CDBG funds depending on the subsequent use of the cleared lot.

The grantee must document that the project's demolition activities meet one of the following three slum and blight criteria in order to expend CDBG funds on project demolition activities:

- 1) Eliminating a specific instance of slum and blight – Infeasible to Rehabilitate. The house is officially determined to not be feasible to rehabilitate. To meet this criterion, the costs to rehabilitate the house to DED health and safety standards must exceed \$15,000, or \$15 per square foot. Generally, grantees will have identified these houses at the time of application submission, particularly for houses in a demolition-only project. For houses that were not targeted for demolition at the time of application, grantees should provide to DED a work specification write-up with a cost estimate for each specification based on rehabilitating the house to DED HQS health and safety standards. Also, include the number of square feet in the house. This information and the estimate will be reviewed to determine whether the house is feasible to rehabilitate. Otherwise, an itemized rehab cost estimate should be submitted to document the national objective by showing that the rehab costs exceeds DED's feasibility cost limit.
- 2) Blighted Area – Under state statute Chapter 353, blighted means that portion of the city within which the legislative authority of such city determines that by reason of age, obsolescence, inadequate or outmoded design or physical deterioration, has become an economic and social liability, and that such conditions are conducive to ill health,

transmission of disease, crime, or inability to pay reasonable taxes. Documentation of their council's or commission's formal ordinance that declares the area blighted must be maintained in the grantee's project file, unless it was provided in their application.

For an area designated by a unit of general local government to meet a definition of slum, blighted, deteriorated or deteriorating area under state or local law, there must be a substantial number of dilapidated houses and the public improvements must be in a general state of deterioration. The demolition must address one or more of the conditions that contributed to the deterioration of the area. A deteriorated building is defined as one that has a minimum of three major HQS deficiencies, such as structural, electrical, plumbing, etc. A grantee must submit documentation that meets this definition unless it was provided in the application.

- 3) Local Dangerous Building Code Ordinance: A grantee may demolish any building that meets their dangerous building code definition. In a CDBG demolition-only project, not more than 25% of those demolitions may be commercial structures. A grantee must have documentation of compliance with their local ordinance prior to the initiation of the demolitions unless this documentation was provided in the application. Each house to be demolished must have been formally cited under the grantee's dangerous building ordinance. The grantee must have a copy of the citation in each property owner's project file

NATIONAL OBJECTIVE: LMI BENEFIT

A grantee may have two national objectives that it must document as a result of using CDBG funds for a demolition activity. The two national objectives are either slum and blight or LMI benefit. In a demolition-only CDBG project, a grantee can only document the elimination of slum and blight as the national objective.

In a scattered-site or target-area project, what a grantee does with a vacant lot after the demolition is completed will determine the national objective that will be achieved. After a grantee gains ownership of a lot following a demolition activity, the grantee has two options regarding the future use of that lot. One, it may sell the lot and use the proceeds in their existing project to accomplish additional demolition or housing activities. Here, the demolition activity will accomplish the HUD national objective of eliminating slum and blight.

The second national objective that can be achieved is LMI benefit. A demolition may result from a project acquisition and relocation. Here, the demolition is initiated to eliminate a specific instance of slum and blight because the house has been officially determined to be not feasible to rehabilitate. Usually, the owner of the property will donate it to the grantee and in return they are relocated to a decent, safe and sanitary unit. After the family relocates, the lot is cleared. The grantee has the option of using the donated lot as neighborhood park and/or play ground if the grantee can show that the target-area population is 51% LMI at the minimum. Here, the resulting neighborhood park would meet the national objective of 51% LMI benefit. Another example for a grantee to achieve LMI benefit would be for the grantee to donate the lot to Habitat for Humanity. Since Habitat will build a house for a LMI family, the grantee will document 100% LMI benefit for the use of that lot. A final example would be the donation of the lot to a non-profit homeless shelter or senior center organization. Here, the limited clientele LMI

benefit would be achieved as the LMI national objective if a homeless shelter or senior center is constructed on the cleared lot.

If the lot is not initially sold by the grantee, then its future use must meet a national objective of least a 51% LMI benefit. The grantee will be required to sign a lot reuse agreement with the state that will govern the future use of the lot to ensure compliance with the LMI benefit requirement. Re-use agreements are addressed below and a sample agreement is provided in Exhibit 35.

ENVIRONMENTAL CLEARANCE

A grantee must have received a clearance letter from the State Historic Preservation Office of the Missouri Department of Natural Resources **before** demolishing any structure with CDBG funds. Please refer to the environmental review chapter in the CDBG Administrative Manual for compliance requirements.

PROCUREMENT AND EQUAL OPPORTUNITY

Grantees must follow the procurement requirements in Chapter VIII of this manual. Sample demolition contracts are in the appendix in Exhibit 35. Should in-kind labor and equipment be used to conduct the demolition activities, the grantee must still comply with State and Federal waste disposal requirements, including OSHA worker protection requirements and EPA/DNR asbestos inspection and disposal requirements.

Demolition-Only Contractor Procurement: We require the grantee to bid all or a substantial number of the project demolitions for bid to the lowest responsive, responsible bidder. This requirement exists to promote the cost effective expenditure of CDBG funds in a demolition-only project. For example, if a grantee was funded to demolish 15 structures, all 15 should be bid to result in one contract. If a grantee was funded to demolish 35 structures, we recommend that the grantee bid one contract, but not less than two contracts. Here, the grantee might bid 20 structures in the first round and 15 in the second round. This may result in the grantee having two contractors; one for each of the two rounds or the same contractor may become the lowest responsible bidder in both rounds. This procurement method has resulted in substantially lowering the average demolition cost per structure.

LABOR REQUIREMENTS

- 1) Davis-Bacon and the State's prevailing wage law are **not applicable to demolition** projects if:
- The demolition work, is not directly related to a subsequent construction project
 - Less than eight units will be constructed on the cleared site(s)/lot(s)
 - The grantee pays for materials and land, but the subsequent construction is solely private, i.e., no federal funds are used to pay for the construction work.

HUD Handbook 1344.1, Rev.1, Appendix #3.:

“7-5: DEMOLITION. Demolition work, which is not related to construction, is not subject to the prevailing wage requirements of DBRA. For example, the demolition of a building because such structure is no longer needed would not in itself be a covered construction activity. However, where an existing building is being demolished as a phase of a construction project subject to DBRA, the demolition would also be covered, as in the case of demolition performed to permit construction of a new building.”

- 2) When the Davis-Bacon/prevaling wage rate is Applicable to a Demolition Projects:
- **Rule 1:** The Davis-Bacon Act requires the payment of prevailing wages only when federal funds are used to pay for construction work for more than \$2,000. The state's prevailing wage law applies to any construction work for public use or benefit that includes any public funds. The State law does not have a dollar threshold amount. For example, if future construction is on the lot acquired by the grantee with CDBG funds and more than eight residential units will be constructed, prevailing wage requirements apply. If the demolition is part of a privately funded construction project that is completed under one contract, and the construction will result in the construction of 8 or more residential units, then Davis-Bacon requirements will also apply to the related demolition contract.
 - **Rule 2: Existing Community Plan:** Davis-Bacon may apply where a grantee has an existing community plan that addresses the use of property acquired with CDBG funds. The grantee must sign a re-use agreement with the State to ensure compliance with Davis-Bacon and national objective requirements based on the specific planned re-use.
 - **Rule 3:** In a CDBG project, Davis-Bacon and/or the state's prevailing wage law applies to demolition work if the grantee **plans** to use **government funds** for construction work on the acquired lot. For example, if the grantee uses CDBG funds to build a restroom for the park on the lot that was acquired and cleared with CDBG funds, then the restroom construction will trigger the use of the Federal and State's prevailing wage building rates.
 - **Rule 4:** Davis-Bacon wage rates are applicable to a demolition project that is part of a "Turnkey" project. Here, the grantee would have a developer pay for the entire construction of a single-family or multi-family project and the supporting public facilities

on the land acquired with CDBG funds. Once the grantee determines that the completed construction work is acceptable, then the grantee would reimburse the developer and pay the contractor at the prevailing wage rates. A re-use agreement would also be required prior to the project to ensure 51% LMI benefit.

CDBG LAND RE-USE AGREEMENT REQUIREMENTS

- 1) For a property where the only expenditure of CDBG funds is for the demolition/clearance activity, a re-use agreement or a property maintenance certification may be required if the grantee does not sell the lot and use the proceeds in their existing project. If the project closes before the cleared lot is sold, the specific form of compliance must be approved by the department. If the lot is sold, the use of the property may be conditioned by the grantee with the new owner with a property maintenance agreement. Here, written compliance with the grantee's property maintenance ordinance is made a condition for the property owner's participation in the grantee's demolition program. A sample ordinance setting up a program may be found in Exhibit 37. At a minimum, the grantee must require the owner of the cleared property to comply with local property maintenance codes. If there are no codes, then the grantee must have the owner sign a certification (Exhibit 38) to agree to keep the lot cleared and mowed.
- 2) For a property that is cleared and acquired with CDBG funds by the grantee, the national objective can be two-fold. First, the property is cleared to achieve the national objective of eliminating a specific instance of slum and blight. Secondly, the re-use of that property by the grantee must achieve the national objective of at least 51% LMI benefit if it is not sold and the proceeds used in their existing project. For example, the cleared lot may be used as a neighborhood park where the grantee documents at that least 51% of the neighborhood residents are LMI. Another example is the re-use of the lot to build a Habitat for Humanity house or a MHDC multi-family unit, or a Rural Development or MHDC financed single-family home. In this example, the grantee, as owner of the lot, will be required to sign a land re-use agreement with the state to ensure the LMI national objective benefit is achieved. A sample re-use agreement can be found in Exhibit 35. The sample agreement may be modified to meet the specific circumstances of your project and it must be approved by DED.

DEMOLITION WASTE DISPOSAL REQUIREMENTS

- 1) Waste Disposal Requirements: CDBG grantees must comply with all state and Federal waste disposal laws, when conducting demolition activities with grant funds. When homes or commercial structures are approved for demolition, grantees must ensure that the demolition wastes are properly disposed of at a permitted/licensed sanitary or demolition landfill. See the DNR technical assistance bulletin in the appendix at Exhibit 39. Asbestos waste materials must be disposed of in accordance with state regulations at 10 CSR 10-6.240. Those regulations require the name of the landfill and that the waste disposal records be maintained for inspection. Hazardous waste must be disposed of in an authorized facility that specializes in hazardous waste, e.g., paint residue that fails the TCLP test.

**DISPOSAL OPTIONS FOR DEMOLITION WASTES
FROM RESIDENTIAL PROPERTIES**

Single Family Residences, Including Rental Properties

Type of Waste	Type of Landfill
Paint Residue (if passes TCLP)	Sanitary landfill or special waste
Paint residue (if fails TCLP)	Hazardous Waste facility or lead smelter
Demolition debris	Sanitary or Demolition landfill
Asbestos roofing - non-friable	Sanitary landfill
Asbestos siding - non-friable	Sanitary landfill
Asbestos flooring - non-friable	Sanitary landfill
Asbestos flooring - friable	Sanitary landfill
Asbestos roofing - friable	Sanitary landfill
Asbestos siding - friable	Sanitary landfill
Scrap metal	Salvage yard for recycling, or sanitary or demolition landfill.

For proper guidance on waste disposal compliance, contact the following agencies:

MO DNR Hazardous Waste Program - 573/751-3176

- Provides disposal compliance information

MO DNR Solid Waste Management Program - 573/751-5401

- Provides a list of landfills in Missouri that have been issued operating permits
- Provides compliance information and technical bulletins

MO DNR Air Pollution Control Program (Asbestos) – 573/751-4817

- Provides Asbestos compliance and certification information
- www.dnr.mo.gov/oac/forms/index.html#AirPollution

MO Department of Health - Lead Program 1-888/837-0927; 573/526-5873

- Provides licensing and compliance information
- www.dhss.mo.gov/Lead/

U.S. Occupational Safety and Health Administration (OSHA) - 800/356-4674

The CDBG program strongly urges you to call each of the above agencies with your compliance disposal questions. We also stress the importance of disposing project waste at a landfill that has been issued a permit by DNR to operate. CDBG grantees will avoid payment of fines by properly disposing of project waste in accordance with State and

Federal regulations. Grantees that have demolition activities in their project will need to have their landfill receipts available for CDBG staff review at the monitoring visits.

- 2) Asbestos: A grantee must first inspect the structure to identify possible sources of asbestos. If evidence of asbestos is found, a licensed asbestos inspector must be hired to identify and assess how the asbestos on the structure should be removed in compliance with the regulations. If it is non-friable, it may be bagged and disposed of at a sanitary landfill. If it is friable, include the directions of the asbestos inspector in your work specifications. Also, the grantee should contact DNR for further guidance at the above listed numbers. For specific requirements, please see Exhibit 39C. Additionally, a grantee must ensure compliance with OSHA worker protection requirements. Finally, a grantee must ensure that a licensed asbestos abatement contractor performs any abatement work that may be necessary prior to the razing of the structure.
- 3) Open Burning: The open burning of a house, that is to be demolished, is prohibited under 10 CSR 10-3. However, under that state code of regulations, a grantee may burn a house for fire training purposes. Here, the grantee must submit a written request to the appropriate DNR regional office through the fire district that will conduct the burning. The DNR regional office will then review the request and issue an open burning permit. Asbestos containing materials must be removed first and CDBG funds may be used for that activity. Please review the DNR open burning fact sheet at Exhibit 39B.

SECTION 104(d) RELOCATION

Grantees must comply with Section 104(d) anti-displacement regulations for any low to moderate income unit that is demolished which is occupied or has been occupied any time during the 12 months prior to that demolition. Compliance with Section 104(d) requires that such units be replaced on a one-for-one basis. Please refer to Chapter X, the Acquisition and Relocation chapter of this manual for the Section 104(d) compliance requirements .

DEMOLITION MONITORING FILE REQUIREMENT LIST

- 1) Lot Owner's Signed Application and Consent form for the Demolition of the Structure
- 2) Lot Ownership Documentation
- 3) Slum & Blight Documentation: either
 - a) Specific Instance of Blight,
 - b) Area Slum & Blight - State Statutory or HUD Regulatory definition, or
 - c) Local Dangerous Building Ordinance definition
- 4) Demolition Bid Specifications and procurement documentation
- 5) Demolition Contract - signed by the grantee, lot owner, and contractor if target-area demo; signed by the grantee and the contractor if demolition-only project

- 6) Demolition Certificate of Completion
- 7) Landfill Receipts
- 8) Documentation of inspection and remediation of hazardous waste - if applicable
- 9) DNR Open Burning Permit - if applicable
- 10) Map - indicate location of each demolition
- 11) Section 104(d) One-for-one replacement documentation - if applicable
- 12) Financial Management – copies of demolition contractor's pay request

Recommendations for Implementing a Demolition-Only Project

- 1) Document in grantee's project files that each demolition meets the HUD national objective of eliminating slum and blight.
- 2) Formally procure and contract with grant administrator, demolition inspector, and licensed asbestos inspector.
- 3) Demolition inspector and asbestos inspector must coordinate asbestos inspection and removal activities; followed by the demolition activities and debris disposal.
- 4) Conduct asbestos inspections.
- 5) If regulated asbestos found, procure asbestos removal contractor and remove asbestos from structures.
- 6) Demolition inspector must prepare scope of work for bid of demolition of structures. Scope of work must include salvage rights, compliance with Federal and State disposal requirements, and any applicable local requirement for the capping or removing of utility lines.
- 7) Formally bid and contract with a demolition contractor.
- 8) Contractors must provide landfill receipts to the grantee to document compliance with State and Federal waste disposal laws. We highly recommend the use of salvage rights for the contractor and/or grantee to lower landfill fees and to promote recycling.
- 9) Comply with DNR fire training permit requirements if any structures are demolished as part of a grantee's fire training exercise/in-kind match.